In the Supreme Court of the United States

OCTOBER TERM, 1967

No. 474

IRWIN GORDON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

SUPPLEMENTAL MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

On August 9, 1967, petitioner filed his petition for a writ of certiorari with this Court seeking review of his conviction on eight counts of an indictment charging violations of the bankruptcy laws (18 U.S.C. 152). Our memorandum in opposition was filed on September 8, 1967.

During the pendency of his appeal in the court below, petitioner was enlarged on bail limited to the Southern District of New York, the Southern District

of Florida, and travel points in between. Upon affirmance of the judgment by the court below (neither petitioner nor his counsel appeared at oral argument), the mandate was not stayed, and petitioner made no application in this Court for a stay of mandate. Petitioner failed to surrender himself to the jurisdiction of the court. On September 5, 1967, a bench warrant was issued, but petitioner has not been found. Information has been received that petitioner had fled from the United States and is now in Portugal. In these circumstances, considerations of judicial policy makes it inappropriate for this Court to exercise its discretionary jurisdiction, and therefore the petition for a writ of certiorari should be dismissed. Cf. *Smith* v. *United States*, 94 U.S. 97; *Bonahan* v. *Nebraska*, 125 U.S. 692; *Eisler* v. *United States*, 338 U.S. 189 and 338 U.S. 883.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

OCTOBER 1967.

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